

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTH CENTRAL BELL TELEPHONE)	
COMPANY'S SPECIAL SERVICE CONTRACT)	CASE NO.
ARRANGEMENT FOR DIGITAL ESSX)	90-140
SERVICE WITH ALLIANT HEALTH)	
SYSTEM)	

O R D E R

This matter arising upon petition of South Central Bell Telephone Company ("South Central Bell") filed May 7, 1990 pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain cost support data and market analyses developed in connection with the Digital ESSX contract for Alliant Health System on the grounds that public disclosure is likely to cause South Central Bell competitive injury, and it appearing to this Commission as follows:

South Central Bell is seeking approval of a contract agreement with Alliant Health System to furnish Digital ESSX services. In support of its application, South Central Bell has filed cost support data, a market analysis, and an analysis of customer willingness to pay for the services, all of which it seeks to protect as confidential. South Central Bell states that in offering ESSX services it competes with companies that provide PBX equipment, which perform comparable functions, and that disclosure of this information is likely to give its competitors an unfair advantage in the market. South Central Bell also

contends that the competitive injury it will suffer by reason of disclosure of the information outweighs the public interest in the information.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure is likely to cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The regulation finds its authority in KRS 61.878(1)(b). That subsection exempts certain commercial information from the Kentucky Open Records Act and is one of nine exemptions to the act. To qualify for the exemption under subsection (b), there is no requirement that the private interest in the information sought to be protected outweigh the public's interest in the information.

Knowledge of a cost support data and the market analysis for the ESSX service would give South Central Bell's competitors valuable marketing information concerning the service, as well as South Central Bell's capital and operating costs and contribution from the service. This information could be used by competitors of South Central Bell in marketing their competing services to the detriment of South Central Bell. Therefore, the information should be protected from disclosure.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The cost support data and market analysis developed in connection with the Digital ESSX contract for Alliant Health Systems, highlighted with blue transparent ink in the cost support pages (Tabs C, D, E, F, G, H, K), the Market Analysis (Tabs J and K), and the Customer's Willingness to Pay Analysis filed with the contract for which South Central Bell seeks approval shall be held and retained by this Commission as confidential and shall not be open for public inspection.

2. South Central Bell shall, within 10 days of this Order, file an edited copy of the contract with the confidential material obscured for inclusion in the public record, with copies to all parties of record.

Done at Frankfort, Kentucky, this 25th day of May, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director